

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

Cellular Priority Access for)
National Security and Emergency)
Preparedness Telecommunications)

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WT Docket No. 96-86

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FEDERAL COMMUNICATIONS COMMISSION
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COMMENTS OF AT&T WIRELESS SERVICES, INC.

AT&T Wireless Services, Inc. ("AT&T"), by its attorneys, hereby submits its comments on the petition for rulemaking ("Petition") filed by National Communications System ("NCS") requesting the Commission to adopt rules to provide Cellular Priority Access Service ("CPAS"). AT&T supports the Petition and encourages the Commission to initiate a proceeding to adopt CPAS rules.

As described in NCS's Petition, CPAS would permit cellular carriers to offer priority access for cellular telephone services used for National Security and Emergency Preparedness ("NS/EP").^{1/} CPAS would give various types of priority access to authorized users during emergencies, when cellular spectrum congestion would otherwise prevent emergency services personnel from using cellular service.^{2/} By permitting the use of mobile cellular technology by rescue professionals during emergencies, CPAS has the potential to aid greatly in disaster relief efforts such as last year's Oklahoma City bombing.

Because of the vital importance of CPAS, AT&T and other industry representatives, as well as state and local governments, have devoted significant resources toward the

^{1/} Petition at 2.

^{2/} Id.

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development of this service through the Cellular Priority Access Services Subgroup ("Subgroup") of the President's National Security Telecommunications Advisory Committee Wireless Services Task Force. Since July 1994, AT&T has joined with, among others, representatives of Ameritech Cellular, Bell Atlantic Mobile Systems, Inc., BellSouth Cellular, Ericsson Radio, Motorola, Northern Telecom, and Sprint in a collective effort to develop technical, administrative, and regulatory standards to deploy nationwide CPAS. The Subgroup's investigation culminated in September 1995 with a report documenting the benefits of nationwide CPAS and recommending that the federal government continue its CPAS initiatives in cooperation with state and local governments, industry groups, and emergency management associations.

I. CPAS Is Consistent With The Communications Act's Nondiscrimination Principles

AT&T agrees with NCS that it is appropriate for the Commission to determine that the provision of CPAS would not offend the nondiscrimination requirement set forth in the Communications Act ("Act"). It is axiomatic that only unreasonable discrimination is forbidden under the Act.^{3/} In addition, the Commission has explicitly determined that, in the context of national security emergency preparedness, carriers may give priority to certain uses of telecommunications without violating the proscription against unreasonable

^{3/} See 47 U.S.C. § 202(a).

discrimination.^{4/} To avoid uncertainty, the Commission should affirmatively find that the provision of CPAS service comports with the Act.

II. Uniform, National Rules For CPAS Would Promote the Public Interest

The draft CPAS rules set forth in the Petition are the result of a comprehensive industry consensus process.^{5/} Adoption of these provisions will benefit disaster relief efforts while recognizing, at the same time, that cellular carriers have existing customers that continue to rely upon them in emergencies. Under NCS's proposal, cellular carriers would not be compelled to provide CPAS and could discontinue the service offering at any time.^{6/} Cellular companies also would be able to charge for the service and each cellular carrier would be permitted to decide how much spectrum is dedicated to CPAS.^{7/}

AT&T further agrees that NCS's proposal for a single, nationwide CPAS standard will benefit all CPAS users, carriers, and manufacturers.^{8/} Disasters often happen without regard to state boundaries. As NCS points out, without uniform standards, emergency personnel might not have priority access outside their own jurisdictions, and economic inefficiencies would result if equipment manufacturers were expected to provide the

^{4/} National Security Emergency Preparedness Telecommunications Service Priority System, Report and Order, 3 FCC Rcd 6650, 6658 (1988) ("TSP Order") (if compliance with TSP rules has been established, there would be heavy burden to show a violation of Section 202 of the Act).

^{5/} Petition at 8-10.

^{6/} Id. at 11.

^{7/} See id. at 8-9.

^{8/} Id. at 7. Under the NCS's proposal, the Executive Office of the President ("EOP") would adopt CPAS rules similar to the Commission's to permit cellular priority access after the invocation of the President's war emergency powers. Id. at 3.

technology necessary to meet various, possibly conflicting, priority access schemes.^{9/}

Moreover, uniform national CPAS rules would permit rescue workers from different jurisdictions to assist relief efforts without concern for whether their cellular telephones are coded for the area in which the disaster occurred. Where federal disaster assistance is provided from different states, or for example when the Federal Emergency Management Agency deploys federal relief, 50 or more different CPAS standards in different states could hinder relief efforts.^{10/}

Under NCS's proposal, however, local rescuers would still have the highest priority during disaster relief. High-level federal, state, and local executive policy personnel would receive priority 1, priority 2 and 3 would be assigned to "first responders," priority 4 would cover stabilization functions, and priority 5 would provide for recovery.^{11/} Thus, federal, state, and local relief can all be accommodated, with local officials sharing the highest priority in the immediate aftermath of the disaster.^{12/}

While AT&T generally supports NCS's proposed rules, it does not believe the Commission should address in a rulemaking on CPAS the issue of what conditions warrant disclosure of the NS/EP database.^{13/} The Commission recently commenced a proceeding to

^{9/} Id. at 8.

^{10/} To the extent that there are jurisdictional concerns with federalized CPAS rules, the Commission has previously determined that national security and emergency preparedness justify preemption of contrary state rules. See TSP Order, 3 FCC Rcd at 6652.

^{11/} Petition at 13.

^{12/} Id.

^{13/} Id., Appendix B at 9.

implement Section 222 of the Telecommunications Act of 1996 regarding the use and protection of customer proprietary network information,^{14/} and any provisions for carriers' treatment of the NS/EP database should be consistent with the rules adopted therein.

CONCLUSION

For the foregoing reasons, the Commission should initiate a proceeding to establish uniform, national CPAS rules.

Respectfully submitted,

AT&T WIRELESS SERVICES, INC.

Cathleen A. Massey / *by* *SFS*

Cathleen A. Massey

Vice President - External Affairs

Myron Proefrock

Director of Government Operations

1150 Connecticut Avenue, N.W.

4th Floor

Washington, D.C. 20036

202/223-9222

Howard J. Symons

Sara F. Seidman

Mintz, Levin, Cohn, Ferris,

Glovsky and Popeo, P.C.

701 Pennsylvania Avenue, N.W.

Suite 900

Washington, D.C. 20004

202/434-7300

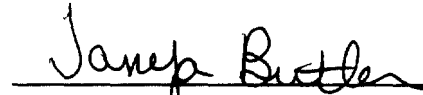
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^{14/} See Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, CC Docket No. 96-115, Notice of Proposed Rulemaking (released May 17, 1996).

CERTIFICATE OF SERVICE

I, Tanya Butler, hereby certify that on this 17th day of June, 1996, I caused copies of the foregoing "Comments of AT&T Wireless Services, Inc." to be sent by messenger to the following:


Tanya Butler

Robert McNamara
Chief
Private Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 8010
Washington, D.C. 20554

International Transcription Service
Federal Communications Commission
2100 M Street, N.W., Room 140
Washington, D.C. 20037